

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

Reginald McKinnon,)	
)	
Petitioner,)	C/A No. 2:19-716-TMC
)	
v.)	
)	ORDER
Bureau of Prisons,)	
)	
Respondent.)	
_____)	

Petitioner Reginald McKinnon, a federal prisoner proceeding pro se, filed a petition seeking mandamus relief pursuant to 28 U.S.C. § 1361. (ECF No. 1). In accordance with 28 U.S.C. § 636(b)(1) and Local Civil Rule 73.02, D.S.C., this matter was referred to a magistrate judge for pretrial handling. The magistrate judge notified McKinnon that she intended to construe the action as a habeas petition pursuant to 28 U.S.C. § 2241, and she gave McKinnon three weeks to inform the court if he agreed with that interpretation. (ECF No. 4).¹ In response, McKinnon filed a form § 2241 petition, which was docketed as an attachment to his original filing. (ECF No. 1-2). Before the court is the magistrate judge's Report and Recommendation ("Report"), recommending that the court summarily dismiss the petition, and that the court deny a certificate of appealability. (ECF No. 11 at 6). The parties were advised of their right to file objections. *Id.* at 7. However, Petitioner did not file any objections, and the time to do so has now run.

¹The magistrate judge also informed McKinnon that he needed to either pay the filing fee or file a motion to proceed in forma pauperis. (ECF No. 4 at 2). McKinnon thereafter filed a motion to be allowed to proceed in forma pauperis (ECF No. 7), which the magistrate judge granted (ECF No. 10).

The Report has no presumptive weight and the responsibility to make a final determination remains with this court. *See Mathews v. Weber*, 423 U.S. 261, 270-71 (1976). In the absence of objections to the Report, this court is not required to provide an explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Rather, “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (quoting Fed. R. Civ. P. 72 advisory committee’s note).

After a thorough review, the court finds no clear error and, therefore, adopts the Report (ECF No. 11). Therefore, this action is **DISMISSED without prejudice**.²

IT IS SO ORDERED.

s/Timothy M. Cain
United States District Judge

May 14, 2019
Anderson, South Carolina

²Unlike in a § 2254 or § 2255 proceeding, it is not necessary for a petitioner to obtain a certificate of appealability to appeal an order dismissing a § 2241 petition. *Sanders v. O’Brien*, 376 F. App’x 306, 307 (4th Cir. 2010).